IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH, JAIPUR

S.B. CIVIL WRIT PETITION NO.3944/2006

Kamal Singh Rajput & Ors.

Vs.

Bharat Sanchar Nigam Ltd. & Ors.

DATE OF ORDER :: 06/11/2006

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. C.L. Saini, for petitioners
Mr. T.P. Sharma, for respondent

This matter has come up on application filed under Article 226(3) of the Constitution for vacation of ex-parte stay order passed by this court on 17th May, 2006, by the respondents.

Looking to the nature of controversy involved in the matter, with the consent of parties, the writ petition is finally disposed of at this stage.

The petitioners have challenged the validity of orders dated 23rd June, 2005 [Ann.8] & 16th January, 2006 [Ann.9].

By the instant writ petition, one of the grievance raised by the petitioners is that certain monetary benefits have already been conferred which cannot be taken away without affording a reasonable opportunity to them, denial of the same is violative of Article 14 of the Constitution.

Respondents filed reply to the writ petition. This fact is not controverted that before passing order impugned, no show cause notice was served upon them.

Counsel further submits that in the case like present one where the error is apparent, no notice was otherwise required to be served even if benefits are conferred upon them.

It is settled principles of law that no one should be condemned unheard. In my considered opinion, once the monetary benefits have been conferred upon the petitioners, they cannot be deprived of the same unless they are heard and opportunity of hearing is afforded to them.

Without expressing opinion on merits of the matter, the writ petition stands allowed only on the ground that show cause notice upon the petitioner has not been served before passing order impugned. Accordingly, the orders dated 23rd June, 2005 [Ann.8] & 16th January, 2006 [Ann.9] are set aside so far as it relates to the petitioners is concerned. However, the respondents will be free to pass a fresh order after due compliance of principles of natural justice in accordance with law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.